



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703)583-3800 FAX (703) 583-3821
www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

Thomas A. Faha
Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Hessian Co., Ltd.
FOR
Faddis Concrete Products
VPDES Permit No. VAG110371**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Hessian Co., Ltd., regarding the Faddis Concrete Products facility, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

*Case 78108
inv 107462*

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means the discharge of a pollutant.
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "Facility" or "Site" means the Faddis Concrete Products facility located at 11023 Dennis W. Kerns Parkway, King George, Virginia 22485, from which discharges of process wastewater, and of stormwater associated with industrial activity, occur.
8. "Hessian Co., Ltd." means Hessian Co., Ltd., a foreign company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Hessian Co., Ltd. is a "person" within the meaning of Va. Code § 62.1-44.3.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
12. "Permit" means VPDES General Permit No. VAG11, which was issued under the State Water Control Law and the Regulation on January 1, 2019, and which expires on December 31, 2023. Hessian Co., Ltd. applied for registration under the Permit and was issued Registration No. VAG110371 on March 4, 2019.
13. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
14. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful

or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.

15. "Registration statement" means a registration statement for coverage under a general permit.
16. "Regulation" means The Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Concrete Products Facilities. 9 VAC 25-193-10 *et seq.*
17. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
18. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
19. "Va. Code" means the Code of Virginia (1950), as amended.
20. "VAC" means the Virginia Administrative Code.
21. "VPDES" means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. Hessian Co., Ltd. owns and operates the Faddis Concrete Products located at 11023 Dennis W. Kerns Parkway, King George, Virginia, which discharges process wastewater and stormwater associated with industrial activity.
2. The Permit allows Hessian Co., Ltd. to discharge process wastewater and stormwater associated with industrial activity from the Faddis Concrete Products to an unnamed tributary of Birchwood Run, in strict compliance with the terms and conditions of the Permit.
3. Birchwood Run is located in the Rappahannock River Basin. The nearest monitored or assessed downstream segment is the tidal estuarine tributary of the Rappahannock River,

2.6 miles downstream, which is listed in the draft 2018 DEQ 305(b) report as impaired for aquatic life use (dissolved oxygen).

4. The Facility owns and utilizes a private grinder pump station, including a pump and tank, on the Facility property which directs and pumps sewage from the Facility to the King George County Service Authority sewer main line.
5. On November 13, 2018, DEQ received an anonymous complaint regarding an overflowing sanitary sewer pump station at the Facility, which was documented in Incident Response Number 2019-N-1926. On November 13 and November 14, 2018, DEQ staff visited the site and observed the pump station had failed and was overflowing, and that solids, rags, debris, grey water, and raw sewage odor were observable in the drainage ditch downstream of the pump station, which leads to state waters.
6. DEQ did not receive a 24-hour notification regarding this sanitary sewer overflow event from November 13, 2018.
7. During a November 14, 2018, site visit, DEQ staff observed the existence of a concrete process-water retention pond with a riser structure that had the potential to discharge to Birchwood Run. At the time of that inspection, the Facility had no VPDES Permit coverage for a potential discharge.
8. On January 30, 2019, Hessian Co., Ltd. submitted a registration statement for coverage under the Permit. Permit coverage was granted under Registration No. VAG110371 on March 4, 2019.
9. Enforcement and compliance meetings were held between DEQ and the management team of the Facility, and between DEQ and King George County Service Authority, on February 21, 2019, and March 26, 2019, respectively.
10. On March 27, 2019, DEQ was informed through an anonymous complaint of raw sewage overflowing from Faddis' pump station into a ditch, leading to state waters. DEQ staff investigated the incident that same day.
11. Facility management informed DEQ of the March 27, 2019, overflow, within the required 24-hour timeframe.
12. A follow-up inspection by DEQ occurred on May 6, 2019, to investigate the pump station failures and overflows, and actions taken by the Facility to rectify the underlying pressure or sediment issues suspected to be causal to the pump failures and overflows.
13. Va. Code § 62.1-44.5.A states that, "Except in compliance with a certificate or permit issued by the Board or other entity authorized by the Board to issue a certificate or permit pursuant to this chapter, it shall be unlawful for any person to: discharge into state waters sewage, industrial wastes, other wastes, or any noxious deleterious substances," or to "otherwise alter the physical, chemical or biological properties of state waters and make

them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.”

14. Va. Code § 62.1-44.5.B states that “Any person in violation of the provisions of subsection A who discharges or causes or allows (i) a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters or (ii) a discharge that may reasonably be expected to enter state waters shall, upon learning of the discharge, promptly notify, but in no case later than 24 hours the Board, the Director of the Department of Environmental Quality, or the coordinator of emergency services appointed pursuant to § 44-146.19 for the political subdivision reasonably expected to be affected by the discharge. Written notice to the Director of the Department of Environmental Quality shall follow initial notice within the time frame specified by the federal Clean Water Act.”
15. The Regulation, at 9 VAC 25-151-70, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
16. NRO issued a Notice of Violation for the violations noted above as follows: NOV No. W2019-01-N-001, issued February 7, 2019.
17. Hessian Co., Ltd. responded to the Notice of Violation by meeting with NRO staff to discuss corrective actions and the information necessary to address the violations.
18. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
19. The Department has issued coverage under no permits or certificates to Hessian Co., Ltd. other than under VPDES Permit No. VAG110371.
20. The unnamed tributary of Birchwood Run is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
21. Based on the results of the November 13 and 14, 2018, incident inspections, the February 21, and March 26, 2019, meetings, the March 27, 2019, incident inspection, and the May 6, 2019, facility inspection the Board concludes that Hessian Co., Ltd. has violated 9 VAC 25-151-70 of the Regulation, and section 62.1-44.5 of the State Water Control Law, as noted in paragraphs C(1) – C(12) of this Order.
22. In order for Hessian Co., Ltd. to return to compliance, DEQ staff and Hessian Co., Ltd. have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Hessian Co., Ltd., and Hessian Co., Ltd. agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$7,000** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Hessian Co., Ltd. shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Hessian Co., Ltd. shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Hessian Co., Ltd. for good cause shown by Hessian Co., Ltd., or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Hessian Co., Ltd. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Hessian Co., Ltd. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Hessian Co., Ltd. declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Hessian Co., Ltd. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Hessian Co., Ltd. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Hessian Co., Ltd. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Hessian Co., Ltd. shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Hessian Co., Ltd. Nevertheless, Hessian Co., Ltd. agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
- a. The Director or his designee terminates the Order after Hessian Co., Ltd. has completed all of the requirements of the Order;
 - b. Hessian Co., Ltd. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Hessian Co., Ltd..

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Hessian Co., Ltd. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Hessian Co., Ltd. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Hessian Co., Ltd. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Hessian Co., Ltd. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Hessian Co., Ltd.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Hessian Co., Ltd. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 20th day of April, 2020.



Thomas A. Faha, Regional Director
Department of Environmental Quality

Consent Order

Hessian Co., Ltd.; VPDES Permit Registration No. VAG110371

Page 9 of 11

----- (Remainder of Page Intentionally Blank) -----

Hessian Co., Ltd. voluntarily agrees to the issuance of this Order.

Date: 1/27/2020 By: *J. Robert Hess Jr.* President
(Person) (Title)
Hessian Co., Ltd.

Commonwealth of Virginia
City/County of Chester

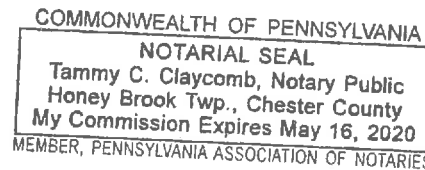
The foregoing document was signed and acknowledged before me this 27 day of
January, 2020, by G. Robert Hess Jr. who is
President of Hessian Co., Ltd., on behalf of the company.

Tammy Claycomb
Notary Public

1269519
Registration No.

My commission expires: May 16, 2020

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Hessian Co., Ltd. shall...

- a. Within 30 days of the execution of this Order, produce a Corrective Action Plan (CAP) to address conditions that have created the recurrent pump station overflows, and to describe the remedial actions and notification actions to be taken in the event of future unpermitted discharges. The CAP shall include a professionally certified engineering review of facility plumbing as it relates to the pump station, and shall include dates by which action items of the CAP shall be completed. Faddis shall respond to DEQ questions or requests for information related to the CAP within 14 calendar days.
- b. Certificates to Construct and Operate shall be submitted prior to the construction or operation of any newly constructed, repaired, or amended pump station. Additionally, a Reliability Classification Worksheet for Pump Stations must be submitted in the event of new construction, repair, or other amendment to the existing pump station.

2. DEQ Contact

Unless otherwise specified in this Order, Hessian Co., Ltd. shall submit all requirements of Appendix A of this Order to:

**Virginia Department of Environmental Quality
Northern Regional Office
Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193**